

SENATE RECORD VOTE ANALYSIS

104th Congress
2nd Session

Vote No. 194

July 17, 1996, 12:58 pm
Page S-7945 Temp. Record

DEFENSE APPROPRIATIONS/Buy-America Requirement

SUBJECT: Department of Defense Appropriations Bill for fiscal year 1997 . . . S. 1894. Stevens motion to table the Simon amendment No. 4591.

ACTION: MOTION TO TABLE AGREED TO, 69-29

SYNOPSIS: As reported, S. 1894, the Department of Defense Appropriations Bill for fiscal year 1997, will appropriate \$244.74 billion for the military functions of the Department of Defense for fiscal year (FY) 1997, which is \$10.2 billion more than requested and \$1.33 billion more than the FY 1996 funding level.

The Simon amendment would require any bid for a Defense Department procurement contract for property or services to contain an estimate of the percentage of work that the contractor would perform in the United States in fulfilling the contract. This requirement could not be waived. The Federal official with authority to award the contract would have to consider an estimate of the percentage of work that would be done in the United States and would have to attach "high importance" to that estimate. Any procurement contract would have to contain a clause stating that the contract would be considered breached if the contractor performed significantly less work in the United States than it had estimated. Contractors' past performance on meeting their estimates of the percentage of work that they would perform in the United States would be considered in awarding new contracts and in exercising options. These requirements could be waived: in an emergency situation; if the national security interests of the United States required a waiver; or if the Secretary of Defense or the Deputy Secretary of Defense determined that following them would violate existing Reciprocal Procurement Agreements with allies and would result in a net loss of work performed in the United States. The amendment would be effective for contracts awarded 60 days after the date of enactment of this bill.

During debate, Senator Stevens moved to table the Simon amendment. The motion to table is not debatable. However, some debate preceded the making of the motion. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

Those favoring the motion to table contended:

(See other side)

YEAS (69)			NAYS (29)		NOT VOTING (2)	
Republicans (50 or 96%)	Democrats (19 or 41%)		Republicans (2 or 4%)	Democrats (27 or 59%)	Republicans (1)	Democrats (1)
Abraham	Hatfield	Bingaman	Snowe	Akaka	Jeffords- ²	Johnston- ²
Ashcroft	Helms	Bradley	Specter	Baucus		
Bennett	Hutchison	Breaux		Biden		
Bond	Inhofe	Bryan		Boxer		
Brown	Kassebaum	Dodd		Bumpers		
Burns	Kempthorne	Exon		Byrd		
Campbell	Kyl	Feinstein		Conrad		
Chafee	Lott	Ford		Daschle		
Coats	Lugar	Glenn		Dorgan		
Cochran	Mack	Graham		Feingold		
Cohen	McCain	Heflin		Harkin		
Coverdell	McConnell	Inouye		Hollings		
Craig	Murkowski	Kerrey		Kennedy		
D'Amato	Nickles	Lautenberg		Kerry		
DeWine	Pressler	Lieberman		Kohl		
Domenici	Roth	Moynihan		Leahy		
Faircloth	Santorum	Nunn		Levin		
Frahm	Shelby	Reid		Mikulski		
Frist	Simpson	Robb		Moseley-Braun		
Gorton	Smith			Murray		
Gramm	Stevens			Pell		
Grams	Thomas			Pryor		
Grassley	Thompson			Rockefeller		
Gregg	Thurmond			Sarbanes		
Hatch	Warner			Simon		
				Wellstone		
				Wyden		

EXPLANATION OF ABSENCE:

1—Official Buisiness
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

The Simon amendment has a lot of surface appeal, but it could have exactly the opposite of its intended effect in practice. Two arguments have been made in favor of this amendment. The first argument is that it is preferable for American workers to get the jobs that come from spending American tax dollars on defense contractors. The second argument is that the United States' defense industrial base needs to be preserved for national security reasons. Our colleagues then say that giving a preference to contract bids that will be largely completed by American workers will serve both of these purposes. We are not so sure. This action could result in retaliation by other countries. At present, the United States spends about \$1.3 billion buying defense items from other countries. Other countries spend about \$14 billion annually buying such items from the United States. Members, when they complain about unfair trade practices of other countries, often talk about trade being a two-way street. The two-way street on defense presently has one lane coming into the United States and nine going out. The United States is not the only producer of defense items in the world--if it decides it will not buy from other countries, its customers may decide to go elsewhere. Passing this amendment could thus result in a large net loss of exports that would cause a decline in the number of defense industry jobs and a decline in the defense industrial base. The long-term effect of the amendment could be to weaken America's technological edge in defense. Technology follows production--weapons need to be produced before they can be refined and improved. Countries that pooled their resources by entering into cooperative agreements to produce weaponry would become more competitive, would gain market share, and, as their production increased, would gain technological advantages that would increase their market share even more. We are not certain that the Simon amendment would prove to be harmful. Other countries have a vested interest in the United States retaining its military superiority. They understand that the United States' military strength, unlike the military strength of any other powerful country in history, serves to protect rather than threaten them. They might decide not to retaliate against the United States trying to protect its defense industry. The House has already passed a provision similar to the Simon amendment only more restrictive. If the Simon amendment were to pass, the conference version of this bill would thus likely contain even stronger Buy America requirements than proposed by the Simon amendment. Given our reservations on the likely effect of this amendment, we cannot accept that result at this point. We should strike the Simon amendment now, and then discuss this issue at length with our House colleagues. If we go to conference without any new Buy America requirement in this bill, it is much more likely that we will arrive at acceptable language. On that basis, we urge the rejection of the Simon amendment.

Those opposing the motion to table contended:

The Simon amendment would put a few teeth into the Buy America Act. At present, that Act does not have any enforcement mechanism and is routinely violated. American companies that win defense contracts turn around and subcontract out huge parts of those contract to foreign companies. They save money by subcontracting because foreign labor is very cheap in most of the world, but Americans lose jobs, and the national security is put at risk as the United States increasingly comes to rely on foreign-made arms. The Simon amendment would make companies follow the Buy America Act by requiring a contractor to reveal the percentage of the contract that would be filled in the United States. A strong preference would then be given to bids that would have a high percentage of the work done in America. A company's failure to meet a percentage would be taken into consideration in the award of future contracts. The requirements of this amendment (except for the requirement to make the percentage estimate) amendment could be waived for our allies if failing to do so would result in retaliation and a net loss in arms sales. The Simon amendment, in a very straightforward manner, would protect defense industry jobs and the defense industrial base. We urge our colleagues to vote in its favor.